

AMENDED IN SENATE JUNE 16, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1141

Introduced by Assembly Member Diaz
(Coauthors: Assembly Members Koretz and Lieber)

February 21, 2003

An act to amend Section 3502.5 of the Government Code, relating to employer-employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1141, as amended, Diaz. Meyers-Milias-Brown Act: agency shop agreements.

The Meyers-Milias-Brown Act authorizes a local public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent to negotiate an agency shop agreement. Under the act, an agency shop arrangement is required to be placed in effect, without a negotiated agreement, upon a signed petition of 30% of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement and the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. Under the act an agency shop arrangement does not apply to management, confidential, or supervisory employees.

This bill would delete confidential and supervisory employees from the employees to which an agency shop arrangement is inapplicable.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3502.5 of the Government Code is amended to read:

3502.5. (a) Notwithstanding Section 3502 or 3502.6, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization that has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may only be filed after the recognized employee organization has requested the public agency to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from any

1 claims, demands, or other action relating to the public agency's
2 compliance with the agency fee obligation.

3 (c) Any employee who is a member of a bona fide religion,
4 body, or sect that has historically held conscientious objections to
5 joining or financially supporting public employee organizations
6 shall not be required to join or financially support any public
7 employee organization as a condition of employment. The
8 employee may be required, in lieu of periodic dues, initiation fees,
9 or agency shop fees, to pay sums equal to the dues, initiation fees,
10 or agency shop fees to a nonreligious, nonlabor charitable fund
11 exempt from taxation under Section 501(c)(3) of the Internal
12 Revenue Code, chosen by the employee from a list of at least three
13 of these funds, designated in a memorandum of understanding
14 between the public agency and the public employee organization,
15 or if the memorandum of understanding fails to designate the
16 funds, then to any such fund chosen by the employee. Proof of the
17 payments shall be made on a monthly basis to the public agency
18 as a condition of continued exemption from the requirement of
19 financial support to the public employee organization.

20 (d) An agency shop provision in a memorandum of
21 understanding that is in effect may be rescinded by a majority vote
22 of all the employees in the unit covered by the memorandum of
23 understanding, provided that: (1) a request for such a vote is
24 supported by a petition containing the signatures of at least 30
25 percent of the employees in the unit; (2) the vote is by secret ballot;
26 (3) the vote may be taken at any time during the term of the
27 memorandum of understanding, but in no event shall there be more
28 than one vote taken during that term. Notwithstanding the above,
29 the public agency and the recognized employee organization may
30 negotiate, and by mutual agreement provide for, an alternative
31 procedure or procedures regarding a vote on an agency shop
32 agreement. The procedures in this subdivision are also applicable
33 to an agency shop agreement placed in effect pursuant to
34 subdivision (b).

35 (e) An agency shop arrangement shall not apply to
36 management employees.

37 (f) Every recognized employee organization that has agreed to
38 an agency shop provision or is a party to an agency shop
39 arrangement shall keep an adequate itemized record of its financial
40 transactions and shall make available annually, to the public

1 agency with which the agency shop provision was negotiated, and
2 to the employees who are members of the organization, within 60
3 days after the end of its fiscal year, a detailed written financial
4 report thereof in the form of a balance sheet and an operating
5 statement, certified as to accuracy by its president and treasurer or
6 corresponding principal officer, or by a certified public
7 accountant. An employee organization required to file financial
8 reports under the federal Labor-Management Disclosure Act of
9 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed
10 by this chapter, or required to file financial reports under Section
11 3546.5, may satisfy the financial reporting requirement of this
12 section by providing the public agency with a copy of the financial
13 reports.

